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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,482	12/20/2001	Stephanie Wai Man Shiu	36691-00002	5484

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EXAMINER

TSIDULKO, MARK

ART UNIT	PAPER NUMBER
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2875

DATE MAILED: 03/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/029,482

Applicant(s)

SHIU, STEPHANIE WAI MAN

Examiner

Mark Tsidulko

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other: _____

DETAILED ACTION

The submission of amendment filed on 11/10/03 is acknowledged. At this point claims 19, 20 have been amended, new claims 21-33 have been added and the remaining claims left unchanged. Thus, claims 1-33 are at issue in the instant application.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims **20, 22, 26** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Referring to Claim **20** it is unclear what Applicant intends by “depressing the switch the first direction causes a characteristic of a resulting light beam to change in one direction and depressing the switch the second direction causes a characteristic of a resulting light beam to change in an *opposite* direction”. Since all light sources are faced same direction, characteristic of any one can’t be changed in an opposite direction.

Referring to Claims **22, 26** it is unclear what Applicant intends by “one change in the light source”. What change?

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5-7, 10, 11, 12, 17, 21, 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Lebens et al. (US 6,305,818).

Referring to Claims 1, 11, 21, 25 Lebens et al. disclose (Fig.1) a battery-powered hand-sized flashlight having a plurality of light sources [150], switch [140], a housing [110] configured so as to direct the light into a beam and an integrated circuit based on signal from the switch and configured to control which of the plurality of light sources are illuminated (Abstract, col.8, lines 45-55).

Referring to Claims 5, 6 Lebens et al. disclose a flashlight having integrated circuit which is a multi –state electronic device having three states that can be changed by a signal from the switch (Abstract, col.8, lines 45-55).

Referring to Claims 7, 12 Lebens et al. disclose a flashlight having integrated circuit which includes a timer used to provide different states of illumination (col.11, lines 1-17).

Referring to Claim 10 Lebens et al. disclose a flashlight having a multiple position switch (col.7, lines 54-57).

Referring to Claim 17 Lebens et al. disclose (Fig.1) a flashlight body configured to direct light from the plural light sources in a single direction.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 4, 13, 14, 15, 18, 19, 22, 24, 26-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lebens et al. (US 6,305,818) in view of Sharrah et al. (US 6,012,824).

Referring to Claims 2, 3 Lebens et al. disclose the instant claimed invention except for light sources with different levels of power consumption and an incandescent bulb.

Sharrah et al. disclose (Fig.11) a flashlight having a LED [285] and incandescent bulb [286]. It is well known in the art of illumination that a LED and incandescent bulb have different levels of power consumption.

Referring to Claims 4, 18 Lebens et al. disclose a switch [140], but does not show type of the switch. It is understood that any desired type of switch well known in the art, including pushbutton switch may be used for the device.

Referring to Claims 13, 19, 24, 27 Lebens et al. disclose a flashlight having a multiple position switch (col.7, lines 54-57). It is understood that repeating of switch activation causes the multi-state device to cycle through the plural states since each state of the switch causes corresponding state of cycle.

Referring to Claims 14, 15 Lebens et al. disclose the instant claimed invention except for light sources with different brightness.

Sharrah et al. disclose (Fig.11) a flashlight having a LED [285] and incandescent bulb [286]. It is well known in the art of illumination that a LED and incandescent bulb have different brightness.

Referring to Claims 22, 26, as best understood, Lebens et al. disclose a flashlight wherein each switch activation causes at least one change in the light sources, if any, that are illuminated, and the new set of illuminated light sources, if any, remain illuminated until a next activation of the switch (col.7, lines 19-23, 54-57).

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Referring to Claims **28-30** Lebens et al. disclose a flashlight having a multiple position switch (col.7, lines 54-57). Since any type of switch has a fixed number of states, it will of course be understood that with each transition caused by an identical activation of the switch, and with the multi-state electronic device returning to an initial state after transitioning through the fixed number of states.

Referring to Claim **31** Referring to Claims **28-30** Lebens et al. disclose a flashlight having a multiple position switch (col.7, lines 54-57) which allows to control various light levels, colors, etc. It is understood that different light levels cause different pattern of the light sources to illuminate and to remain illuminated until a next state transition based on an activation of the switch.

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the at least one incandescent bulb, as taught by Sharrah et al. for the device of Lebens et al. in order to obtain different levels of power consumption.

Claims **8, 9, 16, 23** are rejected under 35 U.S.C. 103(a) as being unpatentable over Lebens et al. (US 6,305,818) in view of Macek (US 6,394,622).

Referring to Claims **8, 16** Lebens et al. disclose the instant claimed invention except for that at least one light source is covered by a lens that does not cover at least one other of the light sources.

Macek discloses (Figs.1, 5, 7) that each light source is covered by own lens.

Referring to Claims **9** Lebens et al. disclose the instant claimed invention except for a lens covers all of LEDs only.

Referring to Claim **23** Lebens et al. disclose the instant claimed invention except for each activation of the switch changes a characteristic of the light beam.

Macek discloses that each activation of the switch changes a characteristic of the light beam, since a LED and incandescent bulb have different brightness.

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It is understood that the flashlight will work without changing the functionality if lens or lenses cover any desired combination of the light sources, but by Examiner's opinion, if lens covers LEDs only, uncovered incandescent bulb is unsaved from a damage.

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the lens, as taught by Macek for the flashlight of Lebens et al. in order to prevent damage of the light sources.

Claims **32** and **33** are rejected under 35 U.S.C. 103(a) as being unpatentable over Lebens et al. and Macek as applied to claim 11 above, and further in view of Adell (US 5,347,261).

Lebens et al. disclose the instant claimed invention except for spring-loaded switch in order to obtain a single state change in the multi-state device.

Adell discloses a spring-loaded switch in order to obtain a single state change in the multi-state device (col.4, lines 30-39).

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the spring-loaded switch, as taught by Adell for the device of Lebens et al. in order to obtain a single state change in the multi-state device.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Tsidulko whose telephone number is (571)272-2384. The examiner can normally be reached on 8 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone numbers for the organization where

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this application or proceeding is assigned are (703) 872-9306 for regular communications and (703)872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

M.T.
February 3, 2004



ALAN CARIASO
PRIMARY EXAMINER